



**Linda S. Adams**  
*Secretary for  
Environmental Protection*

# State Water Resources Control Board

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## Division of Water Rights

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**Arnold Schwarzenegger**  
*Governor*

**NOTICE OF PETITIONS FOR TEMPORARY CHANGE  
INVOLVING THE TRANSFER OF UP TO 12,000 ACRE FEET OF WATER  
FROM THE PLACER COUNTY WATER AGENCY  
AND SACRAMENTO SUBURBAN WATER DISTRICT  
TO THE DEPARTMENT OF WATER RESOURCES'  
2009 DROUGHT WATER BANK  
UNDER PERMITS 13856 & 13858 (APPLICATIONS 18085 & 18087)**

Notice is hereby given that on May 18, 2009,

Placer County Water Agency  
c/o Hanspeter Walter  
Kronick, Moskovitz, Tiedemann & Girard  
400 Capitol Mall, 27<sup>th</sup> Floor  
Sacramento, CA 95814

and

Sacramento Suburban Water District  
c/o Joshua Horowitz  
Bartkiewicz, Kronick & Shanahan  
1011 22<sup>nd</sup> Street  
Sacramento, CA 95816-4907

filed with the State Water Resources Control Board (State Water Board) two Petitions for Temporary Change under Water Code section 1725, et seq. Pursuant to the petitions, Placer County Water Agency (PCWA) and Sacramento Suburban Water District (SSWD) seek to transfer up to 12,000 acre-feet (af) of water to the Department of Water Resources' (DWR) 2009 Drought Water Bank (DWB). PCWA owns and operates the Middle Fork Project and holds water rights for that project subject to Permits 13856 and 13858 (Applications 18085 and 18087). PCWA has a long-term water service contract to deliver up to 12,000 af of water to its co-petitioner SSWD in 2009. SSWD proposes to forego delivery of this quantity of surface water and to transfer its entitlement to DWR's 2009 DWB for use within the service areas of the State Water Project (SWP) and the Central Valley Project (CVP). Temporary changes approved pursuant to Water Code section 1725 may be effective for up to one year from the date of approval.

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*California Environmental Protection Agency*

## **BACKGROUND**

In response to Governor Schwarzenegger's June 4, 2008 Executive Order, the DWB was initiated in the summer of 2008 to help alleviate the drought conditions should they continue into 2009. The DWB is intended to purchase water from willing sellers upstream of the Sacramento-San Joaquin Delta. This water will be transferred using SWP or CVP facilities to water suppliers that are at risk of experiencing water shortages in 2009 due to drought conditions and that require supplemental water supplies to meet anticipated demands. Additional information regarding the DWB is available online at: <http://www.water.ca.gov/drought/bank/>.

Prior to 1998, SSWD (and its predecessor districts) relied exclusively on groundwater. In 1998, PCWA surface water became consistently available to SSWD in substantial quantities. In the 2001 through 2008 period, SSWD diverted and used an average of 13,047 af of treated PCWA surface water each year in lieu of pumping and delivering an equivalent amount of groundwater. Since 2001, when it began taking PCWA surface water, SSWD has not pumped the quantities of groundwater that it pumped prior to 2001 because of the availability of surface water from PCWA.

## **DESCRIPTION OF THE TRANSFER**

PCWA proposes to transfer up to 12,000 af of water currently stored in its Ralston Afterbay Reservoir under Permits 13856 and 13858 (Applications 18085 and 18087) to DWR's 2009 DWB. The petitions request that transfer be authorized for release from the effective date of this order through December 31, 2009; however, the water is most likely to be released during the months of July, August, and September 2009. Water will be released to the Middle Fork American River and temporarily stored in Folsom Reservoir. The transfer water would then be available for release to the Lower American River thence the Sacramento River to the Delta for export to the SWP and CVP service areas. Due to the additional amount of export pumping associated with this transfer, additional Delta inflow will be required to maintain water quality objectives within the Delta. Accordingly, a portion of the transfer water (typically referred to as "carriage water") will be used for salinity control, fish and wildlife enhancement, and water quality control. DWR plans to coordinate with the U.S. Bureau of Reclamation (Reclamation) in order to provide operational flexibility to first store the transfer water in Folsom Reservoir before its conveyance through the Delta. Additionally, DWR and Reclamation will coordinate SWP and CVP operations to convey the transfer water through the Delta.

To provide the 12,000 af of transfer water, PCWA would deliver surface water in Folsom Reservoir that normally would be rediverted by SSWD for treatment at the San Juan Water District's Petersen Treatment Plant and then conveyed through the San Juan Cooperative Transmission Pipeline into SSWD's North Service Area water system for distribution to and consumption by SSWD's retail customers. Because of limitations

in PCWA's place of use, any surface water that it supplies may only be used in SSWD's North Service Area. SSWD has supplied its North Service Area retail customers with treated PCWA surface water in lieu of pumped groundwater, which was SSWD's traditional source of supply. In 2007, however, limited PCWA surface water was available. SSWD received only 4,163 af of surface water that year and pumped a total of 13,962 af of groundwater in the June through September 2007 period. The amount of 2007 groundwater pumping and use is comparable to the amounts of groundwater pumping and use in SSWD during the June through September period prior to 1998. The petition states that SSWD has the capacity to produce a sufficient amount of groundwater to meet demands in its North Service Area during the June through September period when it anticipates transferring its PCWA surface water to the DWB. DWR and Reclamation will verify the amount of transfer water delivered based on the amount of groundwater produced by SSWD during the period the transfer water is delivered to the DWB, less a depletion factor.

In the absence of this transfer, up to 12,000 af of the subject water would be used within SSWD's service area.

### **PROPOSED TEMPORARY CHANGE**

The proposed transfer would temporarily add the SWP's Clifton Court Forebay, Banks Pumping Plant and Barker Slough Pumping Plant; the CVP's Jones Pumping Plant and the Contra Costa Canal. Also, the service areas of the SWP and CVP would be added to the authorized place of use under Permits 13856 and 13858. The SWP's service area is shown on Map 1878-1, 2, 3, and 4 on file with Application 5630. The CVP's service area is shown on Map 214-208-12581 on file with Application 5626. Folsom Reservoir would be added as an alternate point of rediversion. In addition, salinity control, fish and wildlife enhancement, and water quality control should be temporarily added as purposes of use under Permits 13856 and 13858 consistent with carriage water requirements described above.

### **PETITIONER'S WATER RIGHTS**

Permits 13856 and 13858 (Applications 18085 and 18087), issued on January 10, 1963, authorize PCWA to divert to storage up to a maximum of 133,700 af per year (afa) in French Meadows Reservoir and up to 208,400 afa in Hell Hole Reservoir. These permits also authorize the direct diversion of up to a total of 2,025 cfs between November 1 and July 1 of each year. The authorized purposes of use under Permits 13856 and 13858 are irrigation, municipal, industrial, recreation and incidental domestic and the place of use is shown on PCWA's map set dated July 31, 1996.

PCWA also holds Permits 13855 and 13857 (Applications 18084 and 18086), issued on January 10, 1963. These permits authorize similar direct diversion and storage totals and locations as Permits 13856 and 13858; however, these permits are for

non-consumptive uses (i.e., power generation and recreation) and are not included in this petition for temporary change.

PCWA owns and operates the Middle Fork Project (located within the upper American River watershed) which consists of the French Meadows and Hell Hole Reservoirs, with combined storage capacity of approximately 342,000 af, and associated canals, pipelines, powerhouses and regulating reservoirs. French Meadows Reservoir is located on the Middle Fork American River and Hell Hole Reservoir is located on the Rubicon River (which is tributary to the Middle Fork American River). PCWA's Federal Energy Regulatory Commission (FERC) licenses require PCWA to maintain minimum instream flows in the Middle Fork American River and Rubicon River (below both reservoirs) based on the season and water year type. Water stored in French Meadows Reservoir may be pumped via underground pipeline to Hell Hole Reservoir and, during normal operations, PCWA uses Hell Hole Reservoir as the release point for most of the water it uses for power generation and its authorized consumptive uses.

### **COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Temporary changes involving the transfer of water that was previously stored are exempt from the requirements of the California Environmental Quality Act (CEQA). However, the State Water Board must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses.

### **STATE WATER RESOURCES CONTROL BOARD'S STATUTORY PROVISIONS**

Pursuant to Water Code sections 1725, et seq., the State Water Board is authorized to issue temporary change orders, allowing the transfer or exchange of water or water rights after completing an evaluation and finding that the proposed temporary changes:

1. Involve only water that would otherwise have been consumptively used, stored, or conserved pursuant to Water Code section 1011, by Permittee;
2. Would not injure any legal user of the water;
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses; and
4. Any increase in groundwater pumping associated with this transfer (i.e., groundwater substitution) is performed in compliance with Water Code sections 1745.10 and 1745.11.

If the State Water Board cannot satisfy, in a timely manner, the provisions of Water Code section 1725, et. seq., then the State Water Board may deny the petition or schedule and notice a hearing regarding the proposed transfer or exchange of water.

## OPPORTUNITY FOR COMMENT

Pursuant to the requirements outlined above, the State Water Board is seeking information to assist in the evaluation of the proposed temporary change of water rights. Any person may file comments concerning the petition for temporary change. The comments must address the required findings set forth above. The petitioner has the burden of establishing that the proposed temporary change will not injure any legal user of water, or unreasonably affect fish, wildlife, or instream beneficial uses. If the State Water Board determines that the petitioner has established a prima facie case, the burden of proof then shifts to the party that has filed comments (Water Code section 1727). While such a determination has not been made in this case, commenters should provide sufficient information to support claims of injury or effects on fish, wildlife, or other instream beneficial uses.

Due to the relative brevity of the temporary transfer process, the Division of Water Rights (if necessary) may request that the petitioner submit additional information during the comment period. Any such requests and any additional information submitted by the petitioner regarding this proposed temporary change **during the comment period** will be posted with this notice on the Division of Water Rights' website at: [www.waterboards.ca.gov/waterrights/water\\_issues/programs/applications/transfers\\_tu\\_notices/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/). Potential commenters are strongly urged to check the website for such information prior to filing a comment.

Comments filed in response to this notice must be received in the office of the State Water Board's Division of Water Rights, at the first address listed below by **2:00 p.m. on July 6, 2009**. Additionally, a copy of the comments must be filed with PCWA and SSWD. **Comments must be accompanied by proof of service of a separate copy of the materials on the petitioner.** Interested parties are encouraged to file comments by FAX and to notify the following contact persons by telephone of any materials that will be submitted. An original copy of all materials, however, must be received for the State Water Board to consider your comments.

Division of Water Rights  
c/o Greg Wilson  
P.O. Box 2000  
Sacramento, CA 95812-2000  
FAX: (916) 341-5400

Sacramento Suburban Water District  
c/o Joshua Horowitz  
Bartkiewicz, Kronick, & Shanahan  
1011 22<sup>nd</sup> Street  
Sacramento, CA 95816-4907  
FAX: (916) 446-4018

Please address questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner, co-petitioner, or transferee should be addressed as follows:

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Applications 18085 and 18087  
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PCWA (petitioner): Hanspeter Walter (916) 321-4500  
FAX: (916) 321-4555

SSWD (co-petitioner): Joshua Horowitz (916) 446-4254  
FAX: (916) 446-4018

DWR (transferee): Teresa Geimer (916) 651-7194  
FAX: (916) 651-0726

*Original signed by*

Leslie F. Grober, Manager  
Hearings and Special Programs Section

Dated: June 4, 2009